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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,861	04/15/2004	Jimmy TzeMing Pang	S104.12-0056/STL 11441	7109

7590 09/12/2007
Westman, Champlin & Kelly
Suite 1400
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Minneapolis, MN 55402-3319

EXAMINER

MERCEDES, DISMERY E

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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09/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/824,861	Applicant(s) PANG ET AL.	
	Examiner Dismery E. Mercedes	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-15,18-20 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,8-15 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☒ Claim(s) 25-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 6/05/2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiselogel et al. (US 6,130,796) in view of Calfee et al. (US 7,215,498).

As to claim 24, Wiselogel discloses identifying a last usable track on a recording media surface (102b-inner diameter-ID crash stop), beyond a default maximum track (204 default max track); and defining a standoff band of tracks relative to the last usable track to obtain an achieved maximum track on the surface (203 standoff band of tracks). Wiselogel discloses identifying a last usable, beyond a default maximum track, track as a function of a parameter (according to Applicant's definition of an usable on page 6, lines 1-7 of instant specification, the examiner believes Wiselogel discloses a last usable track as claimed, as depicted in Fig.4, when the actuator encounters an inner-outer diameter crash stop & as depicted in Fig.4, 203); and defining a standoff band of tracks relative to the last usable track to obtain an achieved maximum track on the surface (according to Applicant's definition of standoff band of tracks, page 6, lines 10-15 of instant specification, the examiner believes Wiselogel discloses a standoff band of tracks as claimed, as depicted in Fig.4, 203; col.2, lines 35- 50; col.4, lines 23-64). However, Wiselogel fails to particularly disclose the last usable track is identified as a function of a position error signal value. However, Calfee et al. discloses determining the ID crash stop point as a function of a position error signal (fig.12 and col.3, lines 59-67; col.6, lines 37-58; col.7, lines 3-12; col.11, lines 40-45; col.12, lines 10-41; col.13, lines 4-25). Therefore, it would have been obvious to of ordinary skill in the art at the time of the invention to modify the system as disclosed by Wiselogel by implementing a method of determining the ID crash stop position as disclosed by Calfee et al. in order to prevent waste of usable space, thus optimizing a track layout (see col.1, lines 45-49 of Calfee et al.).

Allowable Subject Matter

3. Claims 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1,8-15 and 18-20 are allowed for the reasons stated in the office action mailed on 8/30/2006.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Troemel (US 6,239,937); Patterson (US 6,480,361); Brown et al. (US 6,040,955); Swize (US 7,054,091).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dismery E. Mercedes whose telephone number is 571-272-7558. The examiner can normally be reached on Monday - Friday, from 9:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DM



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SUPERVISORY PATENT EXAMINER